

SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES

Second Regular Session



'17 JUL 19 P1:03

SENATE

Senate Bill No. 1501

RECEIVED BY

Introduced by Senator Grace Poe

**AN ACT
RECOGNIZING TRANSPORTATION NETWORK COMPANIES, PRESCRIBING
REQUIREMENTS, GUIDELINES AND STANDARDS FOR THEIR OPERATION,
PROVIDING PENALTIES FOR VIOLATION THEREOF, AND FOR OTHER
PURPOSES**

Explanatory Note

Transport Network Companies (TNCs) have recently emerged as a new mode of transportation. Generally, TNCs involve a third-party corporation (such as Uber or Grab) that provide clients with smartphone applications which connect them with drivers who transport them to their location.

TNCs online applications connect passengers with drivers in real time; hence, eliminating the uncertainty of waiting for long hours when an available taxi would arrive. This has led to TNCs becoming a viable alternative to taxis, which once held point-to-point transportation market as a captive market. TNCs have all the characteristics of “disruptive innovation”, where a new technology competes with and eventually displaces existing market players.

However, TNCs are hounded by their vague legal and regulatory status whenever they enter a new market. After all, while TNCs and taxis provide similar services, they are markedly different in terms of business model and pricing methodology. As such, regulators have struggled with finding the correct regulatory path to take.

The same story applies to the arrival of Uber and Grab in the country. Uber and Grab entered the Philippine market in 2015. Subsequently, the Department of Transportation (DOTr) issued Department Order No. 2015-011 which introduced Transportation Network Vehicle Services (TNVS) as a new mode of transportation in the Philippines. The Land Transportation Franchising and Regulatory Board (LTFRB) issued Memorandum Circular No. 2015-017, which sets the guidelines for the acceptance of applications for a Certificate of Public Convenience to operate a TNVS. As of December 2016, GrabCar, one of the services of Grab, was reportedly used by more than 1 million users, while Uber reached around 600,000 users. These numbers attest to the emergence of TNVS as a viable alternative to existing modes of point-to-point transportation.

However, the LTFRB suspended the processing of applications for TNVS in 2016. The LTFRB is currently threatening to impound the vehicles of TNVS operators who do not

have certificates of public convenience. Thus, the vague legal and regulatory status of TNVS hangs over the heads of TNVS operators and their passengers.

This author believes that Congressional action is needed to resolve the impasse regarding the legal and regulatory status of TNVS in the country. Thus, the proposed measure seeks to create a separate regulatory framework for TNCs. TNCs are classified as common carriers that, by reason of the nature of their business, should observe extraordinary diligence in their vigilance over the safety of the passengers transported by them. It also provides the requirements for the regulation of TNCs, the standards for their operation, and penalties for the violation thereof.

The undersigned author believes that prudent regulation is necessary for government to ensure the highest degree of service for the general public. In particular, all modes of transportation, whether traditional or innovative, must be regulated to ensure the safety and comfort of passengers; to hold erring or abusive operators and drivers accountable; and to ensure that an adequate number of public transportation units are available in all areas.

However, this author also believes that regulation should not stifle innovation, especially when the same can alleviate the woes of our general public who struggle with traffic congestion every day. Thus, although there is a need for regulation, TNVS is a necessity because our country's public transportation systems continue to remain unreliable.

In view of the foregoing, speedy approval of this proposed measure is earnestly sought.


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Be it enacted in the Senate and the House of Representatives of the Republic of the Philippines in Congress assembled:

CHAPTER I
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “*Transportation Network Services Act.*”

SECTION 2. *Declaration of Policy.* – It is the policy of the State to provide and to promote adequate and efficient modes of transportation in the country. To this end, the State shall enact measures for the regulation of transportation network services to ensure that the paramount interest of the public is protected and conserved, while encouraging free enterprise and economic development.

SECTION 3. *Definition of Terms.* – As used in this Act:

- (a) “*Board*” shall refer to the Land Transportation Franchising and Regulatory Board (LTFRB);
- (b) “*Passenger*” shall mean an individual who uses a transportation network company’s service platform to connect to a driver for transportation network services, including all other persons who accompany said individual for the duration of such service;
- (c) “*Personal vehicle*” shall mean a motor vehicle that satisfies all of the following conditions: (i) owned, leased, or otherwise authorized to be used by the driver; and (ii) not a public utility vehicle as defined in Republic Act No. 10586 and other related laws;
- (d) “*Service platform*” shall mean any internet site or online-enabled application software or system that permits the pre-arrangement of transportation network services;

- 1 (e) “*Transportation network company (TNC)*” shall mean an organization, whether a
2 corporation, partnership, or sole proprietorship operating in the Philippines, that
3 provides pre-arranged transportation services for compensation using an internet-
4 based application or digital platform technology to connect passengers and drivers
5 using their personal vehicles;
- 6 (f) “*Transportation network driver (TND)*” shall mean an individual who (i) satisfies
7 the requirements provided in Section 15 of this Act; (ii) pays a fee to a TNC to be
8 connected to a passenger for the purpose of engaging in transportation network
9 services; and (iii) operates a personal vehicle to engage in transportation network
10 services for compensation; and
- 11 (g) “*Transportation network vehicle services (TNVS)*” shall mean transportation of
12 a passenger between points chosen by the passenger and that is pre-arranged
13 with a TND through the use of a TNC’s service platform. The TNVS begins
14 from the moment the TND accepts a request for transportation on the TNC’s
15 service platform and ends when the TND completes the transaction on the service
16 platform or when the trip is complete and the passenger exits the TND’s vehicle,
17 whichever is later.

18 **SECTION 4.** *Nature of Transportation Network Companies and Drivers.* – TNCs
19 and TNDs are governed exclusively by this Act and shall not be subjected to any rate, entry,
20 operational, or common carrier requirements, other than those requirements expressly set
21 forth in this Act.

22 TNCs and TNDs, regardless of whether their permits are valid and subsisting, are
23 hereby declared as common carriers for purposes of determining the liability and degree of
24 diligence that must be observed in the course of transportation network services, and the
25 presumption of negligence in case of breach of contract of carriage shall likewise apply to
26 them.

27 **CHAPTER II**
28 **REGULATION OF TRANSPORTATION NETWORK COMPANIES**

29 **SECTION 5.** *Issuance of Permits to TNCs.* – A person, organization, or entity shall
30 not be allowed to operate a transportation network company without first obtaining a Permit
31 from the Board upon compliance with the requirements set forth by this Act and other
32 reasonable conditions as may be provided by the Board.

33 **SECTION 6.** *Application for Permit.* – The Board shall grant a Permit to a TNC
34 upon determination that all of the following requirements are met:

- 35 (a) Submission of application in the form prescribed by the Board. The application
36 shall include the applicant’s name, address, tax identification number, and any
37 other information that the Board may deem necessary to assess the applicant’s
38 qualification;
- 39 (b) Proof that the applicant is licensed to do business in the Philippines if the
40 applicant is a foreign corporation;
- 41 (c) Resident agent for purposes of service of process in the Philippines; and
- 42 (d) Payment of an application fee to be set by the Board upon filing of the
43 application.

1 The applicant shall notify the Board of any material change in the information
2 included in the application not later than fifteen (15) days after the change occurs. The
3 Board shall prescribe a form for the disclosure of material changes.

4 **SECTION 7. *Term and Renewal of Permit.*** – A Permit issued by the Board shall be
5 valid for a period of two (2) years unless sooner revoked by the Board for any of the causes
6 provided under Section 23.

7 The Board shall prescribe the form and requirements necessary for the renewal of a
8 permit.

9 **CHAPTER III**
10 **OPERATION OF TRANSPORTATION NETWORK COMPANIES**

11 **SECTION 8. *Requirements for Transportation Network Companies.*** – A
12 transportation network company shall:

- 13 (a) Create an application process for a person to apply for registration as a
14 transportation network driver;
15 (b) Maintain an updated database of the TNC's transportation network drivers;
16 (c) Maintain a website with the following information:
17 i. The TNC's customer service telephone number and/or electronic mail
18 address;
19 ii. The TNC's zero tolerance policy established under Section 9 of this
20 Act;
21 iii. The procedure for reporting a complaint about a TND;
22 (d) Conduct, or have a third party conduct, a safety inspection of the personal
23 vehicle that a TND will use before the motor vehicle may be used to provide
24 transportation network services and ensure compliance with the TNC's
25 vehicle safety policy established under Section 10 of this Act; and
26 (e) Maintain an insurance policy as required under Section 17 of this Act.

27 **SECTION 9. *Zero Tolerance for Drug or Alcohol Use.*** – Each TNC shall
28 develop and implement a policy prohibiting any TND from using drugs or alcohol or any
29 other substance that may render the TND incapable of driving safely while the TND is
30 engaged in transportation network services for the TNC or is logged on to the TNC's
31 service platform. The TNC shall:

- 32 (a) Establish the complaint procedures for reports of suspected violations of the
33 zero tolerance policy;
34 (b) Conduct an investigation upon receipt of a complaint that the TND violated
35 the zero tolerance policy required under this Section and immediately suspend
36 a TND's access to its service platform for the duration of the investigation;
37 and
38 (c) Maintain records relevant to the requirements of this Section for the purposes
39 of enforcement.

40 **SECTION 10. *Vehicle Safety Policy.*** – TNCs shall adopt a vehicle safety policy to
41 ensure the comfort and security of passengers using transportation network services. Such
42 policy shall observe the following minimum standards:

- 1 (a) The vehicle must not have a seating capacity of more than ten (10) persons,
2 including the driver;
3 (b) The transportation of passengers in numbers exceeding the manufacturer's
4 designed seating capacity shall be prohibited, notwithstanding the state's policy
5 of encouraging ride-sharing;
6 (c) The vehicle must be road-worthy and compliant with vehicle emission
7 standards but, in any case, not be more than seven (7) years old from date of
8 manufacture; and
9 (d) The vehicle must be equipped with proper tools and equipment.

10 **SECTION 11. *Fare Setting and Disclosures.*** – A TNC is hereby authorized to set
11 fares but shall disclose the fare calculation method, the applicable rates being charged,
12 and the option for an estimated fare to a passenger before the passenger arranges a trip
13 with a TND. If a TNC utilizes dynamic pricing to incentivize drivers in an effort to
14 maximize the supply of available vehicles on the service platform to match the demand
15 for rides and increase reliability, the service platform must:

- 16 (a) Provide clear and visible indication that dynamic pricing is in effect prior to
17 requesting a trip;
18 (b) Include a feature that requires passengers to confirm that they understand that
19 dynamic pricing will be applied in order for the trip request to be completed;
20 and
21 (c) Provide a fare estimator that enables the user to estimate the cost under
22 dynamic pricing prior to requesting the trip.

23 **SECTION 12. *Electronic Receipt.*** – Within a reasonable time after the
24 completion of a trip, a TNC shall transmit an electronic receipt to the passenger's
25 electronic mail address or mobile application containing the origin and destination of the
26 trip; the total time and distance of the trip; and breakdown of the total fare paid, if any.

27 **SECTION 13. *Identification of Transportation Network Drivers and Vehicles.*** –
28 TNCs shall make available to each prospective passenger, on its service platform, the
29 photograph of the TND and the license plate number, registration number, and description
30 of the TND's vehicle. TNDs shall display recognizable external markers on the vehicle at
31 all times it is being used to provide transportation network services.

32 **SECTION 14. *Confidentiality of Passenger Information.*** – TNCs shall not disclose
33 a passenger's personally identifiable information to any other person unless:

- 34 (a) The passenger consents to the disclosure;
35 (b) The disclosure is required by a legal obligation; and
36 (c) The disclosure is necessary to protect or defend the terms of use of the service
37 or to investigate a violation of those terms.

38 In addition, a TNC shall be permitted to share a passenger's name and telephone
39 number with a TND for the sole purpose of facilitating communication between the
40 passenger and the driver regarding prearranged trips. TNCs shall prohibit the use by TNDs
41 of a passenger's name, telephone number, or other personal information for any purpose
42 other than those listed in this Section. TNCs shall also prohibit TNDs from contacting their
43 passengers for any other purpose than securing their location or to discuss other matters
44 related to the transportation of the passenger.

1 **SECTION 15. Requirements for Transportation Network Drivers.** – An individual
2 may submit an application to a TNC for registration as a TND.

3 (a) Before approving an application, a TNC shall:

4 (i) Require the individual to submit an application that includes at least all of
5 the following:

- 6 a. The individual's name, address, and age;
7 b. Information on the individual's driver's license;
8 c. Proof of motor vehicle registration for the personal vehicle the
9 individual will use to provide TNVS through the TNC;
10 d. Proof of availability of an off-street parking space for the vehicle that
11 he will use to provide TNVS; and
12 e. Proof of motor liability insurance coverage as required under Section
13 17 of this Act.

14 (ii) Conduct a review of the individual's driving history; and

15 (iii) Conduct, or have a third party conduct, a criminal background
16 check for the individual.

17 (b) A TNC shall not approve an application submitted under subsection (a) of this
18 Section and shall disqualify an applicant who:

19 (i) Is below twenty-one (21) years of age;

20 (ii) As shown in the criminal background check required under subsection
21 (a)(iii) of this Section, has been convicted within the past five (5) years of
22 any felony;

23 (iii) As shown in the driving record review required under subsection
24 (a)(ii) of this Section, has been found to have committed, within three (3)
25 years prior to the application, any violation of laws, rules and regulations
26 governing land transportation;

27 (iv) Does not possess a valid driver's license;

28 (v) Does not possess proof of motor vehicle registration; or

29 (vi) Does not possess proof of motor vehicle liability insurance.
30

31 (c) A TNC shall permanently disqualify an applicant who:

32 (i) Makes a material misrepresentation in his or her application;

33 (ii) Submits falsified documents; or

34 (iii) Has been convicted for reckless imprudence resulting in serious physical
35 injuries or homicide.

36 A person whose application as TND has been approved shall be issued a TND
37 Certificate which shall contain the name, address and picture of the driver, and the
38 registration plate number of the vehicle that he will use. The form of the certificate shall
39 be approved by the Board.

40 Nothing in this Section shall be interpreted to prevent the LTFRB from imposing
41 additional standards.

42 **SECTION 16. Drivers as Independent Contractors.** – TNDs shall be independent
43 contractors and not employees of the TNC if all of the following conditions are met:

- 1 (a) The TNC does not prescribe specific hours during which a TND must be logged
2 into the TNC's platform;
3 (b) The TNC does not assign a TND a particular territory in which to operate;
4 (c) The TNC does not restrict a TND from engaging in any other occupation or
5 business; and
6 (d) The TNC and the TND agree in writing that the driver is an independent
7 contractor of the TNC.

8 **SECTION 17. Insurance Requirements.** – TNCs and TNDs shall both maintain
9 insurance policies to cover claims for incidents involving vehicles and drivers while they
10 are providing transportation network services. The Board shall determine, upon
11 consultation with stakeholders, the insurance coverage, including the types of coverage
12 and the limits for each coverage that TNCs shall maintain during the validity of their
13 permit.

14 In every instance where insurance maintained by a TND has lapsed, failed to
15 provide the required coverage, denied a claim for the required coverage, or otherwise
16 ceased to exist, the insurance maintained by a TNC shall provide the required coverage.

17 A TNC shall neither require nor include a hold harmless or indemnification clause
18 in the terms of agreement with a TND. Such clause, if included in the agreement, shall be
19 an absolute nullity.

20 In the event of an accident, a TND shall provide insurance coverage information
21 directly to interested parties, insurers, and investigating police officers, upon request.

22 **SECTION 18. Street Hails.** – A TND may not solicit or accept street hails or
23 otherwise provide transportation for compensation that are not pre-arranged through a
24 TNC's service platform.

25 **SECTION 19. Cash Payments.** – A TND may not solicit or accept cash payments
26 or tips over and above the fare calculated by the TNC's service platform and reflected in
27 the electronic receipt required under Section 12.

28 **SECTION 20. Fleet Service.** – TNCs shall not be allowed to have their own fleet
29 service or be authorized to enter into an agreement with a fleet operator to provide
30 transportation network services. For purposes of this Act, a person who operates more than
31 one motor vehicle shall be considered a "fleet operator" and shall not be registered by the
32 TNC with its service platform.

33 **SECTION 21. Tax Treatment.** – The Bureau of Internal Revenue shall determine
34 the tax liability of TNCs and TNDs and provide the appropriate guidelines for compliance
35 therewith.

36 **CHAPTER IV**
37 **ENFORCEMENT**

38 **SECTION 22. Regulatory Authority.** – The authority of the Board shall be
39 limited to the issuance of permit to and regulation of TNCs to ensure compliance by

1 TNCs with the provisions of this Act. Such authority shall not include jurisdiction to
2 adjudicate private causes of action arising from the provision of transportation network
3 services.

4 **SECTION 23. *Disciplinary Proceedings.*** – The Board, after due notice and
5 hearing, may deny an application for a permit, limit, suspend, or revoke a permit if the
6 TNC:

- 7 (a) Makes a material misrepresentation in any application filed under this Act or
8 rules of the Board;
- 9 (b) Fails to comply with the provisions of this Act or any rule promulgated
10 pursuant to this Act;
- 11 (c) Violates any other law that substantially relates to the operation of TNCs;
- 12 (d) Fails to cooperate with the Board, or fails to timely respond to a request for
13 information by the Board, in connection with an investigation pursuant to this
14 Act; or
- 15 (e) Fails to maintain the qualifications for a permit.

16 In addition to denial of application or other action under the immediately preceding
17 paragraph, the Board may assess against a TNC for each violation enumerated thereunder,
18 a fine not exceeding One Hundred Thousand Pesos (₱100,000.00).

19 **SECTION. 24. *Penalties.*** – The Board shall determine the amount of the
20 administrative penalty to be imposed on a person, firm, corporation or entity found
21 violating the provisions of this Act, after considering the following factors:

- 22 (a) The seriousness of the violation or failure to comply, including the nature,
23 circumstances, extent, and gravity of the violation, and the harm or injury that
24 may arise as a result of the violation;
- 25 (b) The history of contraventions of or failures to comply;
- 26 (c) The efforts made to correct the violation; and
- 27 (d) Any other factor that may be just and reasonable under the circumstances.

28 **SECTION 25. *Fees and Other Charges.*** – The TNCs shall be subject to an
29 annual supervision fee, to be determined by the Board and subject to the approval of the
30 Secretary of the Department of Transportation. The Board shall promulgate rules and
31 regulations governing the collection of such fees, which shall likewise be reviewed
32 periodically and any proposed increase shall be published in two (2) newspapers of
33 general circulation.

34 **SECTION 26. *Records.*** – All TNCs shall maintain passenger trip records for at
35 least one (1) year from the date the trip was completed. TNCs shall also maintain all
36 records concerning each TND for at least two (2) years after the date on which the TND
37 ceases to engage in transportation network services for the TNC.

38 The Board shall have the authority to examine the records of TNCs for the purpose
39 of enforcement of this Act, including a random sample of the TNCs' records related to
40 prearranged rides and TNDs. Such examinations shall be conducted during working hours
41 and shall not occur more than two times per year unless necessary to investigate a
42 complaint. Records obtained by the Board pursuant to this Section shall be kept
43 confidential, except as may be required by law.

